

MONTANA LEGISLATIVE HISTORY

Chapter N/A 19 89

Bill H 236 S _____

Original bill & history ✓ c

H. Committee on Taxation

Hearing Date(s) 2-3 ✓ c

2-14 ✓ c

_____ c

_____ c

Date Out _____ c

S. Committee on _____

Hearing Date(s) _____ c

_____ c

_____ c

_____ c

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

CONSTITUTIONAL AMENDMENT

1 House BILL NO. 236
 2 INTRODUCED BY R. Nelson LeRoy Vincent Espaly
 3 Sharki Wayne HARP Peterson Blythe
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO SUBMIT TO THE
 5 QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE X,
 6 SECTION 2, OF THE MONTANA CONSTITUTION TO DEDICATE 7.5% OF
 7 THE COAL SEVERANCE TAX TO THE PUBLIC SCHOOL FUND; AND
 8 PROVIDING AN EFFECTIVE DATE."
 9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 11 **Section 1.** Article X, section 2, of The Constitution
 12 of the State of Montana is amended to read:
 13 "Section 2. Public school fund. The public school fund
 14 of the state shall consist of: (1) Proceeds from the school
 15 lands which have been or may hereafter be granted by the
 16 United States,
 17 (2) Lands granted in lieu thereof,
 18 (3) Lands given or granted by any person or
 19 corporation under any law or grant of the United States,
 20 (4) All other grants of land or money made from the
 21 United States for general educational purposes or without
 22 special purpose,
 23 (5) All interests in estates that escheat to the
 24 state,
 25 (6) All unclaimed shares and dividends of any

1 corporation incorporated in the state,
 2 (7) Not less than 7.5% of the severance tax on coal,
 3 ~~(7)~~(8) All other grants, gifts, devises or bequests
 4 made to the state for general educational purposes."
 5 **NEW SECTION. Section 2.** Effective date. If approved
 6 by the electorate, this amendment is effective July 1, 1991.
 7 **NEW SECTION. Section 3.** Submission to electorate.
 8 This amendment shall be submitted to the qualified electors
 9 of Montana at the general election to be held in November
 10 1990 by printing on the ballot the full title of this act
 11 and the following:
 12 ☐ FOR dedicating 7.5% of the coal severance tax to the
 13 public school fund.
 14 ☐ AGAINST dedicating 7.5% of the coal severance tax to
 15 the public school fund.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB236, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to submit to the qualified electors of Montana an amendment to Article X, Section 2, of the Montana Constitution to dedicate 7.5% of the coal severance tax to the public school fund; and providing an effective date.

FISCAL IMPACT:

If the proposal is passed by the electorate, the revenue to the general fund would be reduced by the 7.5% dedicated to the public school fund. Using the FY91 estimate of total coal severance tax revenue of \$45,683,000 (REAC), 7.5% would equal \$3,426,225. However, the proposal has a effective date of July 1, 1991, which would mean general fund revenues would not be reduced until FY92.



RAY SHACKLEFORD, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING

1/23/89

DATE



RICHARD M. NELSON, PRIMARY SPONSOR

1/24/89

DATE

Fiscal Note for HB236, as introduced

HB 236

3/23 3RD READING PASSED 89 7

TRANSMITTED TO SENATE

3/27 REFERRED TO STATE ADMINISTRATION

3/31 HEARING

3/31 COMMITTEE REPORT--BILL CONCURRED

4/01 2ND READING CONCURRED 48 0

4/04 3RD READING CONCURRED 47 0

RETURNED TO HOUSE

4/08 SIGNED BY SPEAKER

4/10 SIGNED BY PRESIDENT

4/10 TRANSMITTED TO GOVERNOR

4/15 SIGNED BY GOVERNOR

CHAPTER NUMBER 558 EFFECTIVE DATE: 4/15/89

HB 235 INTRODUCED BY SPAETH, ET AL.

PERMIT PUBLIC EMPLOYEES TO PURCHASE ADDITIONAL
SERVICE UNDER RETIREMENT SYSTEM

1/17 INTRODUCED

1/17 REFERRED TO STATE ADMINISTRATION

1/25 HEARING

1/27 COMMITTEE REPORT--BILL PASSED AS AMENDED

1/30 2ND READING PASSED 89 9

2/01 3RD READING PASSED 89 10

TRANSMITTED TO SENATE

2/02 REFERRED TO STATE ADMINISTRATION

3/01 HEARING

3/01 COMMITTEE REPORT--BILL CONCURRED

3/03 2ND READING CONCURRED 48 0

3/06 3RD READING CONCURRED 50 0

RETURNED TO HOUSE

3/09 SIGNED BY SPEAKER

3/09 SIGNED BY PRESIDENT

3/09 TRANSMITTED TO GOVERNOR

3/13 SIGNED BY GOVERNOR

CHAPTER NUMBER 73 EFFECTIVE DATE: 3/13/89

HB 236 INTRODUCED BY NELSON, R., ET AL.

CONSTITUTIONALLY DEDICATE 7.5 PERCENT OF COAL TAX TO
PUBLIC SCHOOL FUND

1/17 INTRODUCED

1/18 REFERRED TO TAXATION

1/18 FISCAL NOTE REQUESTED

1/23 FISCAL NOTE RECEIVED

1/24 FISCAL NOTE PRINTED

2/03 HEARING

2/28 COMMITTEE REPORT--BILL PASSED AS AMENDED

3/02 2ND READING DO PASS MOTION FAILED 37 54

HB 237 INTRODUCED BY NELSON, R.

ALLOW SCHOOL DISTRICT CLERK TO PUBLISH BUDGET NOTICE
IN PAPER OF WIDEST CIRCULATION

1/17 INTRODUCED

1/18 REFERRED TO LOCAL GOVERNMENT

STATUS SHEET

518. LEGISLATIVE SESSION

HOUSE TAXATION

COMMITTEE

BILL NUMBER	ENTERED COM. DATE	DATE CON- SIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CON- CURRED IN DATE	BE NOT CON- CURRED IN DATE	BE CON- CURRED IN AMENDED DATE	BE NOT CONCURRI IN AS AMENDED DATE
HB 208	1/17/89	1/31/89	2/7/89		2/7/89						
HB 215	1/17/89	1/25/89	TABLED 1/31/89								
HB 236	1/18/89	2/3/89				2/14/89					
HB 250	1/18/89	2/1/89	TABLED 3/16/89								
HB 256	1/18/89	2/10/89									
HB 257	1/18/89	Unscheduled									
HB 263	1/18/89	1/25/89	TABLED 3/16/89								
HB 266	1/18/89	2/1/89	TABLED 2/14/89								
HB 268	1/18/89	1/27/89	TABLED 3/16/89								
HB 269	1/18/89	3/14/89	3/20/89			3/20/89					
HB 280	1/18/89	1/26/89	3/24/89			3/20/89					
HB 293	1/19/89	2/2/89	3/16/89			3/16/89					
HB 359	1/24/89	2/7/89	TABLED 2/14/89								
HB 415	1/26/89	2/7/89				2/16/89					

Use a separate sheet for Senate Bills, House Bills, and Resolutions.

HEARING ON HOUSE BILL 236

Presentation and Opening Statement by Sponsor:

Rep. Richard Nelson, House District 6, submitted his presentation in writing. (Exhibit 8 and 9).

Testifying Proponents and Who They Represent:

Bruce Muir, Montana Schoolboards Association
Eric Fever, Montana Education Association
Jess Long, School Administrators of Montana

Proponent Testimony:

Bruce Muir stated that in the last session, the education trust fund was used to balance the budget. This was of great concern to the education community and was contrary to the legislative intent when the trust was established. Mr. Muir stated there must be a better solution to establishing school funds and recommended the Public School Fund mentioned in the constitution. HB 236 amends that section of the constitution that establishes the Public School Fund and this trust is inviolate. The Public School Fund establishes funds for schools the same as the education trust fund but cannot be used for anything other than public school funding. Mr. Muir stated there is no fiscal impact of this bill during this biennium since this does not become effective until the start of the next biennium. Mr. Muir said the amendments to the bill presented by the sponsor eliminates the schools receiving double funding from both the Education Trust Fund and the Public School Fund since they have no intention of doing this. Mr. Muir urged support for HB 236.

Eric Fever stated that for all intents and purposes, the education trust fund is dead since it was capped and then used for other funding. He stated that what little is left of the fund is slated to be used in former Governor Swinden's budget. Current Governor Stephens has not altered that proposal. The loss of these funds has resulted in a cooperative effort between the Montana Education Association, the Montana Schoolboards Association and the School Administrators of Montana to find a solution. HB 236 would require the legislature to place on the ballot in 1990, a proposal to the people to amend the constitution to protect money transferred from the coal tax in to the common school fund and to remain forever inviolate for public schools. Mr. Fever urged passage of the bill.

Jess Long stated that public school funds are an endowment to be used in future years. He urged passage of the bill and asked the committee in so doing to give the people of

Montana the opportunity to vote on this concept.

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions From Committee Members: Rep. Driscoll asked Mr. Muir since you will receive 7.6% in FY 90, is the purpose to get less money or to have a constitutional trust. Mr. Muir replied the 7.6% goes to the educational trust. The foundation program only receives 67.5% of the interest from the foundation program. For the two year period, only 5 million of the 7.6 would go to K12 education. Rep. Driscoll then asked the amount of money in the public school fund at present to which Mr. Muir replied \$190,000,000.00.

Rep. Giacometto asked Mr. Muir what percentage goes to the school equalization fund of the public school fund interest. Mr. Muir replied 95% goes to the foundation program and 5% is reinvested in the trust.

Closing by Sponsor: Rep. Nelson thanked the committee and urged a positive action on the bill.

DISPOSITION OF HOUSE BILL 268

Motion: None

Discussion: None

Amendments, Discussion, and Votes: None

Recommendation and Vote: Will be considered in executive session at a later date.

EXECUTIVE SESSION

DISPOSITION OF HOUSE BILL 35 HEARD ON JANUARY 11, 1989:

DISCUSSION: Rep. Harrington presented the revised fiscal note on HB 35 to the committee stating the bill reduces the taxable value of buses and trucks heavier than 3/4 ton which gives a total impact of \$607,520.00.

Rep. Driscoll stated that his subcommittee reduced the tax rate on trucks and buses from 13 to 11% and clarified the definition of coal haulers but did not change the tax classification.

Richard Nelson

EXHIBIT
DATE 2/3/89

During the recent "initiated Nelson"
Rep. R. Nelson

A valiant effort was made to do something about school funding. Numerous parent groups, with the aid of school boards, teachers, and administrators worked hard at getting C142 on the ballot & succeeded in getting about 25,000 of the 37,000 signatures needed, or about 80% -- more than any other initiative except those that actually qualified.

HB 236 is the "son of C142". As you will remember, the legislature last session raised the Education Trust to balance the budget. The trust was reduced from about $\$80 \times 10^6$, providing about $\$8 \times 10^6$ to the foundation program, to a mere $\$8.5 \times 10^6$.

which provides the foundation
with less than 1×10^6 - a decrease of about
85%

In this session, the watch word is
"education funding" HB 236 is one vehicle
in a whole caravan of vehicles that will
be needed for this #1 issue.

There are proponents present who can
provide details far better than I. There
is also an amendment in the form of a
"some" where used to show intent as to effect on other agencies
~~"statement of intent"~~ which we would ask
you to ~~continue~~ consider.

DATE 2/3/89

HB 236

Close -

I think C142 got caught in the flood of 'off the wall' initiatives & people were so fed up that they just quit signing anything.

I would urge a positive action on HB 236 at this time as it is a constitutional amendment & has to be voted on in 1990 before it can even start to have an effect.

To wait until the next election cycle and take a chance on another initiative try or take action in the next legislative session would just prolong the funding agony.

EXHIBIT

9

DATE

2/3/89

HB

236

Rep. R. Nelson

Amendment to HB 236
1st reading copy
Requested by Sponsor

1. Page 1, line 9,

Insert: "WHEREAS, the Legislature has placed coal tax money into the Education Trust to provide for the future funding of education,

WHEREAS, the 1989 Legislature appropriated most of the money in the Education Trust,

WHEREAS, a constitutional appropriation of coal tax money to the Public School Fund will not be able to be appropriated by future Legislatures,

WHEREAS, such an appropriation should not affect the funding of other recipients of coal tax money,

WHEREAS, amendments will be necessary in the next legislative session to the statutory distribution of coal taxes to insure that this bill is revenue neutral to other agencies,"

COMMITTEE

DATE February 3, 1989

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

assessed, then the offset is a deduction against that tax. Why is this unconstitutional? Rep. Bardanouve replied that under the present system of allowing deductions for corporation license fees, this is not proper procedure. Rep. Ream then asked Mr. Driscoll if it is unconstitutional to remove the deductibility then it must have been unconstitutional to impose it. Mr. Driscoll replied that the supreme court has not said that the legislature cannot exercise its taxing power but it did say that where there is an agreement as there is here, the court will not allow the impairment of a contract unless it involves a reasonable public service. He stated the court defined reasonable as circumstances unforeseen at the time of the agreement. Mr. Driscoll there were no circumstances in the present law that were unforeseen.

Closing by Sponsor: Rep. Bardanouve stated that Andrea Bennett is the best insurance commissioner the state has ever had and he hoped the committee would consider her position on this bill. He urged the committee to carefully consider the bill and stated the consumers will have to pay higher taxes if the bill is not passed. He thanked the committee for their time and urged their careful consideration.

DISPOSITION OF HOUSE BILL 76

Motion: None.

Discussion: None.

Amendments, Discussion, and Votes: None.

Recommendation and Vote: None. HB 76 will be considered in executive session at a later date.

EXECUTIVE SESSION

DISPOSITION OF HOUSE BILL 236 HEARD ON FEBRUARY 3:

MOTION: DO PASS by Rep. Driscoll.

DISCUSSION: Chairman Harrington stated the bill was previously amended by the committee.

Rep. Raney asked if the 7.5% is money currently going to the Education Trust Fund and not to any other area. Rep. Driscoll responded that this money is not dedicated until 1991 and it would then be 7.6%. Rep. Raney then asked where the 7.5% was

going now to which Rep. Ellison responded it was going to the general fund after July 1, 1989.

Rep. Gilbert stated this was taking money that is needed for other things. The alternative is to raise taxes. He opposed the bill.

HB 236, on a roll call vote of 9 to 8, DO PASS AS AMENDED motion carried.

DISPOSITION OF HOUSE BILL 161 HEARD ON JANUARY 24:

MOTION: Chairman Harrington stated there were amendments on the bill. Rep. Cohen made a DO NOT PASS motion on the bill.

DISCUSSION: Rep. Giacometto stated as he understood the law, if a person is living in a house on property that has been rezoned commercial, the owner does not have to pay commercial property taxes.

Rep. Cohen stated, referring to previous testimony on the bill, that the person involved was not living on the property and this was undeveloped land with commercial zoning. He stated this man's property is in Kalispell is directly across from the city airport and therefore very valuable. He stated this was the worst kind of legislation since it was designed for one area and one specific person.

Rep. Rehberg disagreed stating this was good legislation since the person mentioned did not want to develop the property and the owner should not be penalized in this situation. He stated housing should be differentiated from commercial enterprises. This needs to be addressed. He said the owner should pay residential taxes until such time as the land is actually developed.

Rep. Hoffman stated taxes should be based on use of the property, not on location or potential development possibilities.

Rep. Ellison agreed with Rep. Rehberg.

Rep. Cohen stated the previous proponent to the bill is a man he knows personally. He stated his property is 50 acres with a house in one small corner of the property. Improvements have been made to the property such as sewer lines. He said the value of this property has increased and the man is holding it as an investment. The increased value of the property is due to actions of the city of Kalispell who have zoned this area for commercial industrial use. Rep. Cohen stated if the man wanted to take the house and one acre of the property and keep this as residential, that would be fine but not the entire fifty acre property.

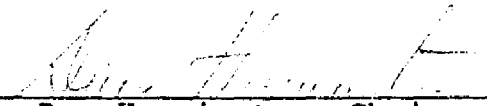
12:40 p.
3/22/89
ja

STANDING COMMITTEE REPORT

February 27, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Taxation report that HOUSE BILL 236 (first reading copy -- white) do pass as amended.

Signed: 
Dan Harrington, Chairman

And, that such amendments read:

1. Page 1, line 9.

Following: line 8

Insert: "WHEREAS, the legislature has placed revenue received from the coal severance tax into the education trust fund to provide for the future funding for education; and

WHEREAS, the 1987 legislature appropriated most of the money that was in the education trust fund at the time; and

WHEREAS, a constitutional allocation of coal severance tax revenue to the public school fund may not be appropriated by future legislatures; and

WHEREAS, such an allocation should not affect the funding of other recipients of coal severance tax revenue; and

WHEREAS, if this constitutional referendum is adopted by the people of Montana, amendments to the statutory distribution of coal severance tax revenue will be necessary to ensure that this bill is revenue neutral to agencies currently receiving coal severance tax revenue.